



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0451]

**Hours of Service of Drivers: Oregon Trucking Associations (OTA) Exemption;
FAST Act Extension of Compliance Date**

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final determination; extension of existing exemption date.

SUMMARY: FMCSA announces the extension of the exemption granted to the Oregon Trucking Associations (OTA) on March 18, 2015, for certain timber operations in Oregon. The Agency extends the expiration date from March 18, 2017 to March 18, 2020 in response to section 5206(b)(2)(A) of the “Fixing America’s Surface Transportation Act” (FAST Act). That section extends the expiration date of hours-of-service (HOS) exemptions in effect on the date of enactment of the FAST Act to 5 years from the date of issuance of the exemptions. The OTA exemption from the Agency’s 30-minute rest break requirement is limited to commercial motor vehicle (CMV) drivers engaged in transporting timber from Oregon forestlands, and further limited to periods of the year in which the Oregon Department of Forestry (ODF) has formally restricted logging operations to certain hours of the day due to an elevated risk of forest fire. The Agency previously determined that the CMV operations of OTA timber transporters under this exemption would likely achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This limited exemption is effective from March 18, 2015, through March 18, 2020.

SUPPLEMENTARY INFORMATION:

Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** [49 CFR 381.315(a)].

Section 5206(b)(2)(A) of the FAST Act requires FMCSA to extend any exemption from any provision of the HOS regulations under 49 CFR part 395 that was in effect on the date of enactment of the Act to a period of 5 years from the date the exemption was granted. The exemption may be renewed. Because this action merely implements a statutory mandate that took effect on the date of enactment of the FAST Act, notice and comment are not required.

OTA Exemption

The OTA, a trade association, applied for a limited exemption from the mandatory rest break requirement of 49 CFR 395.3(a)(3)(ii) on behalf of all motor carriers and drivers who operate CMVs to transport logs in interstate commerce from Oregon forestlands.

FMCSA reviewed OTA's application and the public comments and concluded that limiting the timber operations of these CMV drivers to a fixed 12-hour window would promote safety at least as effectively as the 30-minute break. These drivers operate like certain short-haul drivers, who are already permitted to follow a 12-hour duty period, during which they are exempt from the break requirement. A Notice of Final Determination granting the OTA exemption was published on March 18, 2015 [80 FR 14227].

The substance of the exemption is not affected by this extension. The exemption covers only the 30-minute break requirement [49 CFR 395.3(a)(3)(ii)]. The exemption

is restricted to drivers operating CMVs engaged in interstate logging originating in Oregon forestlands during periods in which the Oregon Department of Forestry (ODOF) imposes Industrial Fire Precaution Level 3 (IPFL3) on those lands, restricting the transportation of logs to certain hours of the day because of an elevated risk of forest fire.¹ Drivers operating under this exemption must be released from duty no more than 12 consecutive hours after the time they come on duty following 10 consecutive hours off duty. They must maintain a record of duty status (“log book”) for the days on which they travel outside a 100 air-mile radius of their normal work reporting location. If an individual chose to forego this short-haul exemption either by travelling outside the 100 air-miles or by working a 14 hour day instead of the 12 hours required by the exemption, he or she would be required to maintain a logbook for that day and also to comply with the 30-minute rest break provision.

The FMCSA does not believe the safety record of any driver operating under this exemption will deteriorate. However, should deterioration in safety occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. The FMCSA has the authority to terminate the exemption at any time the Agency has the data/information to conclude that safety is being compromised.

Issued on: March 23, 2016.

T. F. Scott Darling, III
Acting Administrator.

¹ Neither IFPL 1 nor IFPL 2 restricts the transportation of timber.

